

7

In the Court of Common Pleas for the City and
County of Philadelphia.

SITTING IN EQUITY.

Between

JOHN S. MITCHELL, Plaintiff,

and

DAVID YOUNG, ISAAC S. SMYTH, JOHN FIELD
and JOHN H. DEVERS, Defendants.

To the Honorable the Judges of said Court:

Your orator complains and says:

I. That under and by virtue of certain articles of agreement, dated the first day of January, A. D. one thousand eight hundred and sixty-nine, the said David Young, Isaac S. Smyth, John Field, John S. Mitchell, and John H. Devers associated themselves in the art and trade of importing, manufacturing, buying and selling hosiery, notions, white goods and embroideries under the name and style of Young, Smyth, Field and Company.

II. That the interest and profit of the several co-partners in the said firm was as follows:

The said David Young contributed to the capital stock of the said firm, the sum of \$50,000; the said Isaac S. Smyth contributed the sum of \$20,000; the said John Field the sum of \$25,000; the said John S. Mitchell his services, and the said John H.

Devers his services, and the said David Young was to receive from the net profits of the said firm, thirty-one per centum; the said Isaac S. Smyth twenty-two per centum; John Field twenty-two per centum; John S. Mitchell fourteen per centum, and John H. Devers eleven per centum, and the said parties were entitled to draw annually from the said firm the following sums, to wit: David Young, the sum of \$3,000; Isaac S. Smyth, the sum of \$3,000; John Field the sum of \$3,000; John S. Mitchell, the sum of \$3,000; and John H. Devers the sum of \$2,400, with which said sums the said parties should be respectively charged and deducted from the division of net profits as hereinbefore set forth, and that the said firm should pay annually six per centum to the said David Young, Isaac S. Smith and John Field on the said sums by them severally advanced, and nine per centum on any additional capital by them thereafter advanced.

III. That the said firm thereupon began business at No. 429 Market Street, in the City of Philadelphia, and carried on a very-large, extensive and profitable business, under the said articles of co-partnership, until the first day of January, A. D. one thousand eight hundred and seventy-two, when the said co-partnership expired and dissolved by limitation as provided for in said article of co-partnership, and the said defendants are now carrying on business at the said place and have in their charge and custody the books, accounts and papers of the said firm.

IV. That the actual and real profits of the business of the said firm are not correctly and properly presented in their said books, ~~and~~ ⁱⁿ-as-much as many items of account are improperly charged therein so as to make the apparent net profits less than they really and actually were. And further that some of the items of account contain errors and omissions, as for example, the "discount and interest" account, the account of "fixtures," the item of "bad debts," "stock account," and other items; and that no division of the net profits has ever been made, so far as your orator is informed and believes.

V. That the said firm made large sums of money in carrying on said business as aforesaid, yet the said defendants have refused and still do refuse to account to your orator for the said share of the profits to which he is entitled under said articles of co-partnership, and although often requested, have refused and still do refuse to render to your orator a true account of the said profits and to pay him his proportionate share thereof.

Wherefore your orator needs relief, and prays

I. That the said defendants be required to account for all the income, gains and profits of the said business.

II. That they be required to pay your orator fourteen per centum of the net profits of the said business.

III. Such other and further relief as to your honorable court shall seem meet, and your orator will ever pray.

JAMES ROSS SNOWDEN,
GEO. RANDOLPH SNOWDEN,
Solicitors for Plaintiff.

Bucks County S. S.

John S. Mitchell, the plaintiff above named, being by me duly sworn, saith: That the statements set forth in the foregoing bill are correct and true.

Sworn and subscribed before me,
this 29 day of *April* A. D. 1874 }

(Signed) *John P. Thompson*
Justice of Peace